

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

POP TOP CORP,  
Plaintiff,  
v.  
AMAZON.COM, INC,  
Defendant.

Case No. 22-cv-00112-PCP

**ORDER CONDITIONALLY  
GRANTING MOTION TO  
WITHDRAW**

Dkt. No. 55

In this lawsuit, Plaintiff POP TOP CORP asserts patent infringement claims against Defendant Amazon.com, Inc. The case was transferred from the Western District of Texas to the Northern District of California in January 2022. Dkt. No. 35. POP TOP CORP's counsel Matthew Wawrzyn now moves to withdraw, stating that POP TOP CORP has neither retained California counsel to litigate this matter nor sponsored Wawrzyn's *pro hac vice* application. Dkt. No. 55.

While Amazon does not oppose Wawrzyn's motion, Amazon requests that certain conditions attach to his withdrawal, namely: (1) that papers continue to be served on Wawrzyn for forwarding purposes until POP TOP CORP appears by other counsel, pursuant to Civil Local Rule 11-5; (2) that POP TOP CORP be given thirty days to obtain new counsel from the date of this Order, in the absence of which the case will be dismissed for failure to prosecute; and (3) that the Court retain ancillary jurisdiction over Wawrzyn for purposes of any award of attorneys' fees, costs, and sanctions. Dkt. No. 57. Wawrzyn does not oppose the first two conditions but opposes the third. Dkt. No. 60.

The Court agrees that Wawrzyn should be permitted to withdraw from his representation of POP TOP CORP in this matter. The California Rules of Professional Conduct provide that a lawyer may withdraw from a representation if the client "renders it unreasonably difficult for the

1 lawyer to carry out the representation effectively.” Cal. R. Prof’l. Cond. 1.16(b)(4); *see also* Civ.  
2 Local Rule 11-4(a)(1) (requiring attorneys practicing in this Court to adhere to “the standards of  
3 professional conduct required of members of the State Bar of California”). POP TOP CORP’s  
4 failure to procure local counsel or sponsor Wawrzyn’s *pro hac vice* application makes it not just  
5 difficult but *impossible* for him to represent POP TOP CORP in these proceedings. *See* Civ. Local  
6 Rule 11-1(a) (limiting practice in this Court to members of the Court’s bar, counsel for the United  
7 States, attorneys admitted *pro hac vice*, and certain student practitioners); Civ. Local Rule 11-1(b)  
8 (limiting membership in the Court’s bar to members of the State Bar of California).

9 The Court will grant Amazon’s request to impose its three proposed conditions on  
10 Wawrzyn’s withdrawal. Wawrzyn has previously been sanctioned for his representation of POP  
11 TOP CORP in similar patent infringement proceedings, Dkt. No. 60, at 3, and the Court will retain  
12 jurisdiction over him given the possibility of similar sanctions in this case.

13 For the foregoing reasons, the Court grants Wawrzyn’s motion to withdraw with the three  
14 conditions set forth above. Pursuant to Local Rule 11-5(b), Wawrzyn shall notify POP TOP CORP  
15 of this Order, including the three conditions set forth herein.

16 **IT IS SO ORDERED.**

17 Dated: November 20, 2023

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20 P. Casey Pitts  
United States District Judge